BOOK REVIEWS.

FRANCIS GOERTNER, *Editor-in-Charge.*

THE LAW OF INTERSTATE RENDITION, ERRONEOUSLY REFERRED TO AS INTERSTATE EXTRADITION. By JAMES A. SCOTT. Chicago: SHERMAN HIGHT. 1917. pp. xiv, 534.

The author, reiterating the thought conveyed in his title, opens his text with the phrase, "Interstate rendition, frequently but inaccurately referred to as 'interstate extradition'." But, as if almost shrinking from the possible consequences of this audacious innovation, he proceeds to declare that, while he "fully realizes" that "such a radical change as the substitution of the word 'rendition' for the commonly used word 'extradition', may not be received with general favor, yet, accuracy and precision in the use of words demand the adoption of 'rendition'." Several pages farther on he graciously observes that the present reviewer, "in his book on 'International Extradition and Interstate Rendition', held to the same view."

In a play once much in vogue with the votaries of the comic stage, bearing, as the reviewer recalls it, the euphonious title "Our Boarding House", the leading roles were borne by two rival singers, who, with a view to exhibit their respective merits, alternately assailed with ever rising inflection the auditory nerves of their unfortunate fellow-lodgers. The reviewer trusts that he may not be suspected of harboring vocal ambitions, if he admits that almost a generation ago, in 1891, he did publish a treatise in two volumes, entitled, as he dimly recalls it, not "International Extradition and Interstate Rendition", but "Extradition and Interstate Rendition", the second volume of which was devoted to the latter subject. In this work, which has happily proved to be a fecund source of even unconscious inspiration and succor to subsequent writers, he ventured, not diffidently, but with full, aggressive confidence to expound, as he affirmed, "the fundamental difference between extradition and interstate rendition", and to introduce into the law the distinctive terminology again unfurled to the world by the present author. Declaring in his preface that, in his judgment, the "rendition" of fugitives from justice as between the components of the Union was "not properly described as extradition" he explained that, since "the accurate employment of terms" was "of the utmost importance", and the use of the word "extradition" invited the application of the principles of international law to the interstate proceeding, the second part of his work had been called "Interstate Rendition". This thought he also reiterated in the opening sentence of his second volume, explicitly asserting that, while the use of the term "extradition" in the interstate proceeding was "firmly established", it was "nevertheless inaccurate and misleading"; and from this point on, throughout the volume, he endeavored, by running title as well as argumentative demonstration, to impress the distinction and its connotation upon the profession. Not long afterwards, in *Lascelles* v. *Georgia,* 148 U. S. 537, the Supreme Court of the United States, which had not passed upon the point before,

sanctioned the distinction and adopted the reviewer's emblem of it, in an excellent opinion prepared by Mr. Justice Jackson, who had just then been called to that exalted stage. It is true that the learned justice, with that tendency to omission said to characterize "first appearances", neglected Paine's caution against undue preoccupation with plumage, and, while espousing the innovation, forgot to mention the author of it; yet the brief for the State of Georgia, with which the opinion exhibits an intimate acquaintance, abundantly quoted, with punctillious citation, the reviewer's then recent treatise; and the reviewer recalls with pleasure the circumstance that counsel for that State, before the case was decided, courteously sent him a copy of their brief, with an appreciative letter of acknowledgment. The learned justice moreover referred to "the clear opinion pronounced by Lumpkin, Justice," in the court below, which repeatedly cited the same treatise and adopted its terminology, as well as to the then recent case of *Comm.* v. *Wright* (Mass.), 33 N. E. 82, in which Chief Justice Field, adverting to the fact that Spear and the reviewer reached "opposite conclusions", sanctioned the latter's position and his use of the word "rendition".

The present work should prove to be useful both to lawyers and to administrative officials. It states and analyzes cases very fully, and embraces the latest decisions. No doubt the text would often have been susceptible of condensation, but, as the volume is not cumbersome, this is a defect less serious than would have been that of oversight or material omissions. Nearly a third of the work is devoted to a reprint of the statutes of the several states, to which are added those of Alaska and Porto Rico, on the subject under consideration. Such a collection is convenient for the practitioner. It is followed by a table of cases.

J. B. Moore.

A TREATISE ON THE LAW OF INHERITANCE TAXATION. By LAFAYETTE B. GLEASON and ALEXANDER OTIS. New York: MATTHEW BENDER & Co. 1917. pp. lxiii, 836.

The construction of a statute common to many states, even though the wording of the act is substantially the same, will differ according to the theories which the various courts have in regard to the subject matter. This is especially true in reference to taxation statutes where no benefit is conferred upon the *res* subject to the tax. An inheritance tax is in a measure confiscatory, depriving the beneficiaries of a decedent's bounty of a portion of the gift. Hence there arises a conflict between the upholders of individual freedom and the right of absolute ownership of property, and those who subscribe to the view that the state has an active interest in the accumulation of wealth, and, therefore, is entitled to a part of such accumulation. Such is the effect of a tax on inheritance, although the theory upon which the levy is upheld is that the state having granted the right to bequeath and to inherit, may place a price upon that privilege.

In the recent work compiled by Messrs. Gleason and Otis, neither view is urged. Very little attempt is made to discuss the theory of the rules applied, or to prophecy as to the solution of the difficult problems which are arising or may arise. The volume is one for the use of busy practitioners whose chief desire is the most recent decisions as well as the leading cases construing the statute. With this view in